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DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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Rec'd November 8, 1947
5:23 a. m.

FROM: Rome

TO: Secretary of State

NO: 3569, November 6, midnight.

COMMERCIAL TREATY NO. 18.

Italo-Argentine commercial agreement as signed contains restrictive shipping provisions same as French-Argentine agreement (text as in my telegram 1940, July 12, but with exclusion second sentence on insufficient tonnage). Article was renumbered 32.

Department's telegram 1141, July 15, stated such restrictions are indirect contravention shipping provisions in draft FCN treaty and Embassy formally conveyed that view to Italian Government my telegram 1997, July 18. US is therefore in prospective position of entering upon FCN treaty containing provisions not in harmony with obligations undertaken by other MCP (assuming eventual ratification Argentine agreement by Italy).

Commercial Counselor British Embassy here has also raised question with us whether Italo-Argentine shipping clauses contravene article 82(C) of peace treaty with Italy. Simmons said London has instructed him to investigate Argentine agreement with view to protest based on information his Foreign Office had obtained from Department. Simmons said he would inform London that US had already protested, that he thought UK should also protest "for record" the Argentine agreement finally signed and text available but that he thought peace treaty applicability questionable. We informed Simmons our view that Italians not responsible for inclusion shipping restrictions in Argentine agreement and that such action against their own interest.

Although we readily

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Although we readily perceive discriminatory effect of provisions Argentine agreement we would appreciate having with which of FCN treaty shipping articles (19 through 21). Argentine provisions are inconsistent. Appears to us that paragraph one, article 20, for instance may be subject limited interpretation as relating only to matter covered in paragraphs two, three, and four. On other hand we can see where non-shipping articles such as 18 might be applicable and it is obvious that Argentine provisions are inconsistent with general principles of MFN and equal treatment which are basic elements throughout FCN treaty.

Department's comments on applicability of peace treaty article 82, paragraphs one (B and C) in this case would also be appreciated.

Sent Department as 3569; repeated Buenos Aires as 38.

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EJH:AEW

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